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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,927	05/24/2001	Lee E. Cannon	29757/ AG32-CIP	2424

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EXAMINER

JONES, SCOTT E

ART UNIT PAPER NUMBER

3713

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/864,927

Applicant(s)

CANNON ET AL.

Examiner

Scott E. Jones

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34,35,38 and 55-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34,35,38 and 55-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/28/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/9/05, 5/19/05</u> | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3713

DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment filed on January 4, 2005 in which applicant amends claims 55 and 61, adds claim 67, and responds to the claim rejections. Claims 34-35, 38, and 55-67 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 34-35, 38, 55-58, and 60-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pascal et al. (WO 98/00210) in view of Giacalone, Jr. (U.S. 5,758,875).

The rejection as stated in Office Action, Paper No. 09262004 is retained and incorporated herein. The rejection to claim 34 applies to the rejection to new claim 67.

4. Claim 59 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pascal et al. (WO 98/00210) in view of Giacalone, Jr. (U.S. 5,758,875) and further in view of Okada (U.S. 4,508,345).

The rejection as stated in Office Action, Paper No. 09262004 is retained and incorporated herein.

Response to Arguments

5. Applicant's arguments filed January 4, 2005 with respect to the outstanding rejections to claims 34-35, 38, and 55-66 under 35 U.S.C. 103(a) have been fully considered but they are not persuasive.

6. Applicant's arguments, see pages 3 and 5, filed January 4, 2005, with respect to the objections to the claims have been fully considered and are persuasive. The objections to the claims have been withdrawn.

7. Applicant respectfully disagrees with the rejection to claims 34-35, 38, 55-58, and 60-67 under 35 U.S.C. 103(a) as being unpatentable over Pascal et al. (WO 98/00210) in view of Giacalone, Jr. (U.S. 5,758,875). Applicant alleges Giacalone, Jr. does not teach changing a rate of play for a first to a second rate of play in response to at least one selected game outcome. The examiner respectfully disagrees. Although a player rate of play is a function of the speed of the player interaction with the game, the rate of play may be modified in response to an outcome of at least one game outcome. For instance, in Pascal et al. a player plays as fast as they can to accumulate as many points as possible during tournament play. If a player has not accumulated many points as the time period progresses, a player may slow down the rate of play based on at least one losing outcome (or a combination of losing outcomes). On the other hand, give a player has accumulated a number of points as the time period progresses, the player may increase the rate of play based on at least one winning outcome (or a combination of winning outcomes) to accumulate more points before the time period expires. For the reasons discussed hereinabove, the examiner maintains the combinations taken as a whole to one having ordinary skill in the art renders the claimed invention obvious.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (571) 272-4438. The examiner can normally be reached on Monday - Friday, 8:30 A.M. - 5:00 P.M..

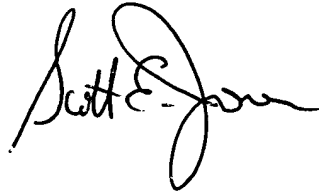
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3713

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott E. Jones
Primary Examiner
Art Unit 3713

sej

A handwritten signature in black ink, appearing to read "Scott E. Jones", with a stylized, cursive script.